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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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10 Frank Estrada and Carman Estrada,
11 husband and wife; and Othon Luna and
12 Estella Luna, husband and wife,

13 Plaintiffs,

14 vs.

15 City of San Luis; Rafael Torres;
16 Rural/Metro Fire Department Inc.;
17 Rural/Metro Protection Services, Inc.;
18 and Rural/Metro (Delaware) Corporation
(FN),

19 Defendants.
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22 Frank Estrada and Carman Estrada,
23 husband and wife; and Othon Luna and
24 Estella Luna, husband and wife,

25 Plaintiffs,

26 vs.

27 City of San Luis; Rural/Metro Fire
28 Department Inc.; Rural/Metro Protection
Services, Inc.; Rural/Metro (Delaware)
Corporation (FN); Rafael Torres; Juan
Carlos Escamilla; Lee Maness; and
Gabriel Jimenez,

Defendants.

) Consolidated Actions

) No. CV-07-1071-PHX-DGC (Lead Case)
) No. CV-08-0945-PHX-DGC (Member Case)

) **ORDER**

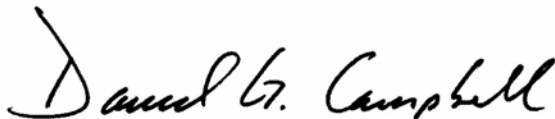
1 On May 29, 2007, Plaintiffs commenced an action in this Court against the City of
2 San Luis, Rafael Torres, and various Rural/Metro entities (Case No. CV-07-1071-PHX-
3 DGC) ("First Action"). Nearly a year later, on May 19, 2008, Plaintiff filed another action
4 in this Court against the defendants named in the First Action and three other defendants
5 (Case No. CV-08-0945-PHX-ROS) ("Second Action"). The actions have been consolidated.
6 Dkt. #22 (CV-08-0945); Dkt. #89 (CV-07-1071).

7 In an order dated November 15, 2007, the Court dismissed all claims asserted against
8 Rural/Metro in the First Action based on Noerr-Pennington immunity. Dkt. #45 (CV-07-
9 1071). Rural Metro has filed a motion to dismiss the Second Action as an impermissible
10 attack on the Court's order of dismissal in the First Action. Dkt. #25 (CV-08-0945).
11 Plaintiffs have not filed a response to the motion, and the time for doing so has expired. *See*
12 LRCiv 7.2(c).

13 The Court already has dismissed the Second Action as impermissibly duplicative of
14 the First Action. Dkt. #23 (CV-08-0945); Dkt. #90 (CV-07-1071). The Court therefore will
15 deny Rural/Metro's motion to dismiss the Second Action as moot.

16 **IT IS ORDERED** that the Rural/Metro Defendants' motion to dismiss complaint in
17 CV-08-0945 (Dkt. #25) is **denied** as moot.

18 DATED this 9th day of September, 2008.

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23 David G. Campbell
24 United States District Judge
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